

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

MARITZA AMADOR, *et al.*,

Plaintiffs,

v.

BEXAR COUNTY, *et al.*,

Defendants.

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5:15-CV-810

ORDER

Before the Court is Defendant Bexar County's Motion to Dismiss Bexar County Sheriff's Office and Supporting Brief, filed September 28, 2015 (Dkt. 7). Although more than fourteen days have passed since the date of service of the motion, no response from Plaintiffs has been received. After a review of the motion and the relevant case law, the Court finds that the motion should be granted.

This case involves the shooting death of Gilbert Flores. Plaintiffs allege that Mr. Flores was wrongfully killed by employees of the Bexar County Sheriff's Office. Accordingly, Plaintiffs have named the Bexar County Sheriff's Office as one of several Defendants in this case. Defendant Bexar County now moves the Court to dismiss Defendant Bexar County Sheriff's Office on the grounds that a sheriff's department is a servient political agency not subject to an independent legal action.

The Fifth Circuit has held that "[i]n order for a plaintiff to sue a city department, it must enjoy a separate legal existence." *Darby v. Pasadena Police Dep't*, 939 F.2d 311, 313 (5th Cir. 1991) (internal quotation marks omitted). "[U]nless the true political entity has taken explicit steps to grant the servient agency with jural authority, the agency cannot engage in any litigation except in concert with the government itself." *Id.* Accordingly, a city department or other subdivision of a political entity generally cannot be sued. *See id.* ("[A] suit no more can proceed

against the police department alone than it could against the accounting department of a corporation.”); *see also Wyatt v. Anderson*, No. A-13-CA-191-SS, 2014 WL 670855, at *5 (W.D. Tex. Feb. 20, 2014 (“The Bastrop County Sheriff’s Office is not a legal entity capable of being sued.”)).

Accordingly, the Court finds that Defendant Bexar County Sheriff’s Office is not a legal entity capable of being sued. The proper Defendant is Bexar County.

Defendant’s Motion to Dismiss Bexar County Sheriff’s Office and Supporting Brief (Dkt. 7) is hereby **GRANTED**. Defendant Bexar County Sheriff’s Office is hereby **DISMISSED WITH PREJUDICE**.

SIGNED on October 15, 2015.



ROBERT PITMAN
UNITED STATES DISTRICT JUDGE